

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1367, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 2, line 23, delete "a family dwelling unit or units intended for"
- 2 and insert "**the following:**
- 3 **(1) A Class 2 structure (as defined in IC 22-12-1-5) or an**
- 4 **improvement on the same real estate auxiliary to a Class 2**
- 5 **structure (as defined in IC 22-12-1-5).**
- 6 **(2) Property that is:**
- 7 **(A) owned, operated, managed, or controlled by a public**
- 8 **utility (as defined in IC 8-1-2-1), municipally owned utility**
- 9 **(as defined in IC 8-1-2-1), joint agency (as defined in**
- 10 **IC 8-1-2.2-2), rural electric membership corporation**
- 11 **formed under IC 8-1-13-4, or not-for-profit utility (as**
- 12 **defined in IC 8-1-2-125) regulated under IC 8; and**
- 13 **(B) intended to be used and useful for the production,**
- 14 **transmission, delivery, or furnishing of heat, light, water,**
- 15 **or power to the public."**
- 16 Page 2, delete lines 24 through 25.
- 17 Page 2, line 26, delete "buildings."
- 18 Page 3, between lines 40 and 41, begin a new paragraph and insert:
- 19 "SECTION 2. IC 32-8-3-3 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) **Except as**
- 21 **provided in subsection (b), a person who wishes to acquire a lien**

upon any property, whether the claim is due or not, shall file in the recorder's office of the county at any time within ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter a sworn statement in duplicate of the person's intention to hold a lien upon the property for the amount of the claim.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). Any person who wishes to acquire a lien upon any property, whether the claim is due or not, shall file in the recorder's office of the county at any time within sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter, a sworn statement in duplicate of the person's intention to hold a lien upon the property for the amount of the claim.

(c) The statement **under subsection (a) or (b)** must specifically set forth:

- (1) the amount claimed;
- (2) the name and address of the claimant and the name of the owner;
- (3) the latest address of the owner as shown on the property tax records of the county; and
- (4) the legal description, street and number, if any, of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the township assessor at the time of filing of the notice of intention to hold a lien. The recorder shall mail first class one (1) of the duplicates to the owner named in the notice within three (3) business days after recordation and post records as to the date of this action. The notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement of the person intending to hold a lien upon the property. The recorder

shall be entitled to a fee of two dollars (\$2) to be collected from the lien claimant for each notice that is mailed.

~~(b)~~ (d) The statement required by subsection (a) **or (b)** may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court."

Page 4, line 20, delete "a family" and insert **"the following:**

(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).

(2) Property that is:

(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public."

Page 4, delete lines 21 through 23.

Page 4, line 26, after "applies to" insert **"a construction contract for the construction, alteration, or repair of a building or structure other than"**.

Page 4, delete lines 27 through 36, begin a new line block indented and insert:

"(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).

(2) Property that is:

(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water,

- 1 **or power to the public."**
- 2 Page 4, line 37, delete "(c)" and insert "**(b)**".
- 3 Page 4, line 40, after "lien" insert "**against real estate**".
- 4 Page 4, between lines 41 and 42, begin a new paragraph and insert:
- 5 **"(c) A provision in a contract for the improvement of real estate**
- 6 **in Indiana under which one (1) or more persons agree not to file a**
- 7 **notice of intention to hold a lien is void."**
- 8 Page 5, line 15, delete "a family dwelling unit or units" and insert
- 9 **"the following:**
- 10 **(1) A Class 2 structure (as defined in IC 22-12-1-5) or an**
- 11 **improvement on the same real estate auxiliary to a Class 2**
- 12 **structure (as defined in IC 22-12-1-5).**
- 13 **(2) Property that is:**
- 14 **(A) owned, operated, managed, or controlled by a public**
- 15 **utility (as defined in IC 8-1-2-1), municipally owned utility**
- 16 **(as defined in IC 8-1-2-1), joint agency (as defined in**
- 17 **IC 8-1-2.2-2), rural electric membership corporation**
- 18 **formed under IC 8-1-13-4, or not-for-profit utility (as**
- 19 **defined in IC 8-1-2-125) regulated under IC 8; and**
- 20 **(B) intended to be used and useful for the production,**
- 21 **transmission, delivery, or furnishing of heat, light, water,**
- 22 **or power to the public."**
- 23 Page 5, delete lines 16 through 18.
- 24 Page 5, line 25, delete "or renewed".
- 25 Renumber all SECTIONS consecutively.
- (Reference is to HB 1367 as reprinted February 17, 1999.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 1.

Bray

Chairperson